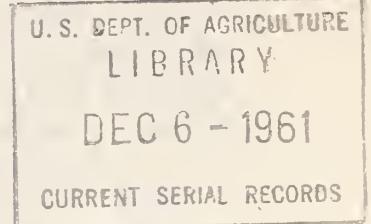


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UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
Cotton Division



Service and Regulatory Announcement No. A.M.S. 173

REGULATIONS OF THE DEPARTMENT OF AGRICULTURE
FOR COTTON CLASSIFICATION AND MARKET NEWS
SERVICES FOR ORGANIZED GROUPS OF PRODUCERS

(Title 7, Ch. 1, Pt. 28, Sections 28.901-
28.917 of the Code of Federal Regulations)

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DEFINITIONS

Sec. 28.901 Definitions. When used in the regulations in this subpart:

(a) "Act" means the applicable provisions of the act of Congress of March 3, 1927 (44 Stat. 1372), as amended by the Act of Congress of April 13, 1937 (50 Stat. 62) (7 U.S.C. 471-476), and the United States Cotton Standards Act, as amended (42 Stat. 1517; 7 U.S.C. 51 et. seq.).

(b) "Service" means the Agricultural Marketing Service of the United States Department of Agriculture.

(c) "Administrator" means the Administrator of the Agricultural Marketing Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) "Division" means the Cotton Division of the Agricultural Marketing Service.

(e) "Director" means the Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

ADMINISTRATION

Sec. 28.902 Director. The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the regulations in this subpart.

CLASSIFICATION AND MARKET NEWS SERVICES

Sec. 28.903 Classification of samples. The Director, or his authorized representatives, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with the regulations in this subpart shall, as hereinafter provided, furnish to such producers without charge the classification in accordance with the official cotton standards of the United States of samples representing the cotton produced by them.

Sec. 28.904 Market news. The Director shall cause to be distributed to groups of producers organized to promote the improvement of cotton who comply with the regulations in this subpart, and to others on request, for posting at gins, in post offices, or other public or conspicuous places in cotton growing communities, timely information on prices for various grades and staple lengths of cotton.

ORGANIZED GROUPS

Sec. 28.905 Organized groups. Groups of producers organized to promote the improvement of cotton may be recognized as such within the meaning of the act if they meet the following requirements:

- (a) The organized group is composed of bone fide cotton producers.
- (b) The organized group has as its primary purpose the improvement of cotton. Each organized group is encouraged to work with federal and state agencies interested in the improvement of cotton, particularly the Extension Service.
- (c) The organized group shall assume responsibility for obtaining, identifying, and shipping samples to be classified and for posting market information furnished to it in accordance with the regulations in this subpart; shall see that samples are drawn, handled, and shipped in accordance with instructions furnished from time to time by representatives of the Director; and shall designate a responsible representative and alternate representative to act for members of the group in matters pertaining to compliance with the regulations in this subpart. Such representative or alternate representative need not be a producer or a member of the group.

SAMPLING

Sec. 28.906 Approval and bonding of samplers. The cotton of members of organized groups may be sampled at a cotton gin, or at a warehouse which issues negotiable warehouse receipts. Sampling agents at these sampling locations are subject to the approval of the Director or his representatives. Each sampling agent, other than an approved warehouse sampler or an employee of the Department of Agriculture, serving one or more cotton gins shall, as a condition for approval, execute and file with the Division a good and sufficient bond to the United States to secure the faithful performance of his duties as a sampler under the terms of the act and this subpart. Said bond shall be in such form and amount and shall have such surety or sureties as shall be approved by the Service: Provided, That said bond shall be in an amount not less than \$1,000 for each gin serviced less than five; and not less than \$5,000 for five or more gins serviced: Provided further, That such surety or sureties shall be subject to service of process in suits on the bond within the State, district, or territory in which such sampler shall perform services under the act and this subpart.

Sec. 28.907 Responsibilities of sampling agents. Each sampling agent shall be primarily responsible for drawing, identifying, handling, and shipping samples of cotton in accordance with this subpart and with instructions furnished by the Director or his representatives from time to time.

Sec. 28.908 Samples--(a) Only one sample to be submitted. Only one sample from each bale of eligible cotton shall be submitted for classification under this subpart. This does not prohibit the submission of an additional sample from a bale for review classification on a fee basis if the producer so desires.

(b) Drawing of samples manually. Each cut sample shall be drawn from the bale after it is tied out following the ginning process, and shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale: Provided, That each sample from a bale of American Egyptian cotton shall be approximately 10 ounces in weight, not less than 5 ounces of which are to be drawn from each side of the bale.

(c) Mechanical sampling. Samples may be drawn in gins equipped with mechanical samplers approved by the Division and operated according to sampling instructions furnished by the Director or his representatives. Such samples shall be not less than 6 ounces in weight.

(d) Samples must be representative. Each sample must be representative of the bale from which drawn.

(e) Handling samples. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Samples shall not be handled by any person other than the sampling agent prior to shipment or delivery to the cotton classing office of the Division.

(f) Identifying and shipping samples. Each sample shall be identified with a tag, supplied or approved by the Division, bearing the gin or warehouse number of the bale from which the sample was drawn and the name and address of the producer of the bale. The tag shall be placed between the two halves of the sample, the sample tightly rolled and enclosed in a package or bag for shipment. Each package or bag shall be labeled or marked with the name and address of the sampling agent for the organized group. The packages shall be shipped or delivered direct to the cotton classing office serving the territory in which the cotton is ginned.

Sec. 28.909 Costs. Costs incident to sampling, tagging, and identification of samples and transporting samples to points of shipment shall be without expense to the Government, but tags and containers for the shipment of samples may be furnished and shipping charges via Post Office Department or duly authorized common carrier paid by the Service. After classification the samples shall become the property of the Government.

CLASSIFICATION

Sec. 28.910 Classification of samples. The samples submitted as provided in this subpart shall be classified by employees of the Division and a classification memorandum showing the grade and staple length of each sample according to the official cotton standards of the United States will be mailed or made available to the producer whose name appears on the tag accompanying the sample, or to a representative designated by the producer or the organized group to receive the classification memorandum.

Sec. 28.911 Review classification. A producer may request one review classification for each bale of eligible cotton. The fee for review classification is 25 cents per sample. Samples for review classification may be drawn by samplers bonded pursuant to Sec. 28.906, or by samplers at warehouses which issue negotiable warehouse receipts, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to Sec. 28.908 and to supplemental instructions issued by the Director or his representatives. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be without expense to the Government.

APPLICATIONS

Sec. 28.912 Applications for service. Applications for the classing and market news services from organized groups of producers shall be made on forms furnished by the Division. Each application shall include (a) the date; (b) the name and location of the organized group; (c) objectives of the cotton improvement program of the group; (d) the names and post office addresses of the president, representative, and alternate representative of the group; and (e) other information that may be required by the Director.

Sec. 28.913 Time limitation. Application shall be filed with an authorized representative of the Division or mailed to such representative within a period of time to be announced by the Division for the receipt of applications for services during the year to which such application relates. To receive consideration, any such application submitted by mail shall have been postmarked before midnight of the last day of such announced period.

Sec. 28.914 Rejection. Applications may be rejected for noncompliance with the act or the regulations in this subpart.

Sec. 28.915 Withdrawal. An organized group may withdraw its application at any time.

Sec. 28.916 Renewal. Applications shall be subject to renewal from year to year in accordance with a procedure to be prescribed by the Director or his authorized representatives.

LIMITATION OF SERVICES

Sec. 28.917 Limitation of services. The Director, or his authorized representatives, may suspend, terminate, or withhold cotton classing and market news services to any organized group upon its request, or upon its failure to comply with the act or these regulations.

TEXT OF THE SMITH-DOXEY AMENDMENT

(Public Law No. 28--75th Congress, approved April 13, 1937,
50 Stat. 62; 7 U.S.C. 473 a, b, and c)

An Act authorizing the Secretary of Agriculture to provide for the classification of cotton, to furnish information on market supply, demand, location, condition, and market prices for cotton, and for other purposes.

Sec. 473a. Classification of cotton on request of producer. The Secretary of Agriculture, upon request in writing from any group of producers organized to promote the improvement of cotton who comply with such regulations as he may prescribe, is authorized and directed to determine and to make promptly available to such producers, the classification, in accordance with the official cotton standards of the United States, of any cotton produced by them. The Secretary of Agriculture is further authorized to pay the transportation charges and to furnish tags and containers for the samples of cotton submitted for classification under this section, and all samples of cotton so classified shall become the property of the Government, and the proceeds of any sales thereof after classification shall be covered into the Treasury of the United States as miscellaneous receipts.

Sec. 473b. Market supply, demand, condition and prices; collection and publication of information. The Secretary of Agriculture is also authorized and directed to collect, authenticate, publish, and distribute, by telegraph, radio, mail, or otherwise, timely information on the market supply, demand, location, condition, and market prices for cotton, and to cause to be prepared regularly and distributed for posting at gins, in post offices, or in other public or conspicuous places in cotton-growing communities, information on prices for the various grades and staple lengths of cotton.

Sec. 473c. Rules and regulations. The Secretary of Agriculture is further authorized to make such rules and regulations as he may deem necessary to effectuate the purposes of this Chapter.

SMITH-DOXEY PENALTY PROVISION

(Public Law 86-588, Approved July 5, 1960. 74 Stat. 328-329)

§ 473c--1. Offenses in relation to sampling of cotton for classification.
It shall be unlawful--

(a) for any person sampling cotton for classification under sections 471-474 of this title knowingly to sample cotton improperly, or to identify cotton samples improperly, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as a sampler;

(b) for any person to influence improperly or to attempt to influence improperly or to forcibly assault, resist, impede, or interfere with any sampler in the taking of samples for classification under sections 471-474 of this title;

(c) for any person knowingly to alter or cause to be altered a sample taken for classification under sections 471-474 of this title by any means such as trimming, peeling, or dressing the sample, or by removing any leaf, trash, dust, or other material from the sample for the purpose of misrepresenting the actual quality of the bale from which the sample was taken;

(d) for any person knowingly to cause, or attempt to cause, the issuance of a false or misleading certificate or memorandum of classification under sections 471-474 of this title by deceptive baling, handling, or sampling of cotton, or by any other means, or by submitting samples of such cotton for classification knowing that the cotton has been so baled, handled, or sampled;

(e) for any person knowingly to submit more than one sample from the same bale of cotton for classification under sections 471-474 of this title, except a second sample submitted for review classification;

(f) for any person knowingly to operate or adjust a mechanical cotton sampler in such a manner that a representative sample is not drawn from each bale; and

(g) for any person knowingly to violate any regulation of the Secretary of Agriculture relating to the sampling of cotton made pursuant to section 473c of this title.

§ 473c--2. Same; penalties

Any person violating any provision of section 473c--1 of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

§ 473c--3. Liability of principal for act of agent.

In construing and enforcing the provisions of sections 471-474 of this title, the act, omission, or failure of any agent, officer, or other person acting for or employed by an individual, association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the individual, association, partnership, corporation, or firm, as well as that of the person.

